

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**LARRY STEVE MELTON,
LARRY S. MELTON, and
R & J OF TENNESSEE, INC.,**

Plaintiffs,

vs.

BANK OF LEXINGTON, et al.

Defendants.

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**No.: 1-02-1152 B
JURY DEMANDED**

**ORDER GRANTING DEFENDANT, DANIEL PERKY'S MOTION FOR SUMMARY
JUDGMENT AND DISMISSING CLAIMS AGAINST DANIEL PERKY**

The Court, the Honorable United States District Judge J. Daniel Breen, presiding, conducted a status conference in this case on May 27, 2005. The Court announced at that time that it had considered a number of pending motions before the Court. Among the motions addressed was the Motion for Summary Judgment filed by Defendant, Daniel Perky (Docket Entry # 472 & # 473) to dismiss all claims filed by Larry S. Melton against Daniel Perky as described in a pleading styled "Counterclaims/Crossclaims Complaint." (Docket Entry #416).

The Court considered Defendant Perky's Motion for Summary Judgment and supporting documentation and the response filed thereto by Larry S. Melton (Docket Entry # 545), as well as the other relevant pleadings and documentation in accordance with Rule 56, Fed. R. Civ. P., and the standard enunciated by the United States Supreme Court in Celotex v. Caltrett, 477 U.S. 317, 106 S.Ct. 2548, 61 L.Ed.2d 265 (1986) and the Sixth Circuit Court of Appeals in Street v. J.C. Bradford, 886 F.2d 1472 (6th Cir. 1989). Having considered such matters, the Court announced that it considered Defendant Perky's Motion for Summary Judgment to be well taken and stated that the Court was granting said Defendant's motion. After careful review of the

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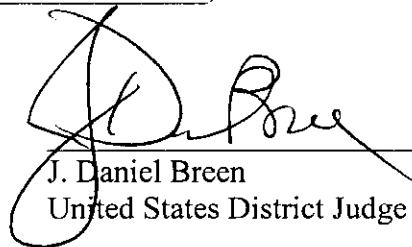
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undisputed facts relevant to Mr. Melton's allegations against Mr. Perky, the Court announced its determination that Mr. Melton had failed to present any viable claim or theory against Defendant, Daniel Perky, upon which relief may be granted. It is undisputed that Mr. Perky had no professional relationship with Larry S. Melton. It is undisputed that Mr. Perky served as a substitute trustee for a very brief period of time from approximately October, 16, 2000 until March 15, 2001. Mr. Perky was not involved with any alleged subsequent foreclosure involving any real estate involving Larry S. Melton or otherwise at issue in this case. No alleged duty of the type argued by Mr. Melton exists on the undisputed facts relevant to Mr. Melton's claims, and if such an alleged duty did exist, no breach of any such duty has been shown to have occurred.

Accordingly, as indicated by the Court on May 27, 2005, Defendant Daniel Perky's Motion for Summary Judgment (Docket Entry # 472) is hereby GRANTED. All claims filed by Larry S. Melton against said Defendant, Daniel Perky, are hereby DISMISSED. No other party having asserted any claim against Defendant Daniel Perky or opposed his Motion for Summary Judgment, Defendant Daniel Perky is hereby dismissed as party to this lawsuit.

IT IS SO ORDERED.

THIS 10th day of June, 2005.


J. Daniel Breen
United States District Judge



Notice of Distribution

This notice confirms a copy of the document docketed as number 597 in case 1:02-CV-01152 was distributed by fax, mail, or direct printing on June 13, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT